

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2021-107-10049R

Parcel No. 8947-17-354-013

**Cottage Properties, LLC,**

Appellant,

vs.

**Sioux City Board of Review,**

Appellee.

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**Introduction**

The appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 9, 2021. Owner Doug Frank represented Cottage Properties, LLC. Attorney Coyreen Weidner represented the Board of Review.

Cottage Properties, LLC owns an unimproved residential property located at 1639 W 29th Street, Sioux City, Iowa. Its January 1, 2021, assessment was set at \$4,800. (Ex. A).

Cottage Properties petitioned the Board of Review claiming that the property's assessment was not equitable as compared with the assessments of other like property in the taxing district and that it was misclassified or non-assessable. Iowa Code § 441.37(1)(a)(1)(a & c) (2021). The Board denied the petition.

Cottage Properties then appealed to PAAB.

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the

appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

### **Findings of Fact**

The subject property is an unimproved 0.144-acre site. (Ex. A).

Frank testified on behalf of Cottage Properties. Frank purchased the subject site in February 2015 for \$700. (Ex. A). At that time, he testified the City had deemed it unbuildable for a dwelling. In his opinion, this dramatically reduces its market value. He later testified that to his knowledge he could build a storage building or garage, but he cannot improve the site with a dwelling. County Assessor John Lawson testified for the Board of Review and agreed the site could not be improved with a dwelling, but a garage or other storage building could be built.

Lawson petitioned the 2017 assessment and stipulated to a value for that assessment year of \$300. (Ex. 2). He appeals now because of the 2021 assessment is significantly higher at \$4,800. Prior to his purchase, Frank testified the lot was for sale for \$2500, for two years with different realtors and then listed at two auctions with no offers because the lot was deemed unbuildable. Lawson acknowledged a 2017 stipulation for the 2017 assessment, but he was not the assessor at that time. He further explained stipulations are normally for one-year or a re-assessment cycle. It would have been reviewed for the next assessment cycle that occurred in 2019. The rationale for a limited stipulation, rather than a stipulation in perpetuity is because markets can change or conditions on the property can change. In any event, we note the plain language of

the settlement offers no indication it is meant to apply to anything but the 2017 assessment.

Frank also owns an improved property at 1623 W 29th Street, which abuts the subject site. (Ex. E). An aerial of this property and the subject site identifies them as Lot 176 (subject site) and Lot 177 (1623 W 29th Street). (Ex. D). He testified he purchased 1623 W 29th Street in 2009 and he has used it as a rental property since that time. Frank also owns another rental property directly across the street from 1623; 1639 W 29th Street, as well as other rental properties in Sioux City. The subject site itself is not rented.

2019 and 2021 aerials of the subject site show a fence between the properties was removed and moved, with the most recent aerial depicting it as an extension of the yard associated with 1623 W 29th Street. (Exs. F & G). Frank explained the subject site was razed prior to him purchasing it but the original fencing between the two sites and the back of the site to the alley was not removed. He explained the fence at the rear of the property had eventually rotted and required replacement to keep trespassers off the site. Despite the fence between the two sites being relocated to the back of the subject lot, Frank testified the subject site is not used by that neighboring tenant; he uses and maintains the site. He stated he will sometimes use it for storing his dump truck, skid loader, or other vehicles. He later testified that a trampoline and camper located on the site and seen in the aerials is owned by the tenant of 1623 W 29th Street.

Lawson testified it is typical to consider common ownership when assessing parcels that are adjoining and being used together. He explained the main lot, in this case 1623 W 29th Street is valued and then the additional lot is valued as “excess land.” In this case, the improved property has a value of \$2.98 per square foot for the first 5,000 square feet of that site and the remaining 1,250 square feet are assessed at \$1.23 per square foot. The total site value is \$16,400. (Ex. E). Rather than assess the subject site as its own parcel, which would value the first 5,000 square feet at a higher rate, the assessor treated it as excess land to the improved site. Therefore, the first 3,750 square feet of the subject site is assessed at the excess rate of \$1.23 per square foot reflecting a continuation of the adjoining improved site, and the remaining 2,500

square feet is assessed at \$0.08 per square foot, resulting in a total site value of \$4,800. Here, we note this methodology benefits Cottage Properties with a lower unit rate per square foot. Were the subject site valued as if it were under different ownership, it would be assessed at a higher unit rate. Lawson testified this methodology was applied to other vacant lots with commonly owned adjoining property in the area.

Frank disagrees with this methodology. In his opinion these two properties are separate and should be valued separately because he could sell or utilize either property without the other. He does not believe the subject lot benefits the adjacent rental dwelling, but admits Lawson's methodology would make sense if he owner-occupied the dwelling. He does not believe the subject's current \$4,800 assessment is its market value but he did not submit any adjusted comparable sales, an appraisal, or a comparative market analysis, which is typical evidence to show market value.

### **Analysis & Conclusions of Law**

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* "Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value." *Id.* "In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit." *Id.*

Cottage Properties contends the subject property is inequitably assessed and misclassified as provided under Iowa Code section 441.37(1)(a)(1)(a & c). He bears the burden of proof. § 441.21(3).

Under section 441.37(1)(a)(1)(a), a taxpayer may claim that their “assessment is not equitable as compared with assessments of other like property in the taxing district.” Cottage Properties did not identify any comparable properties to conduct an equity analysis. In the absence of any comparables, we obviously have no basis to conclude the subject is inequitably assessed and therefore we find the claim must fail. Even so, Lawson testified the subject was assessed in a similar manner as other vacant lots in the area.

Cottage Properties’ misclassification claim basically asserts the Assessor erred by combining the subject with the neighboring property for valuation purposes. In actuality, that is not a misclassification claim as it is commonly understood. Typically, a misclassification claim asserts the Assessor has misclassified a property as commercial, residential, etc.

Cottage Properties’ argument is more akin to an overassessment or error claim under section 441.37(1)(a)(1)(b, d). We are not convinced Cottage Properties could prevail under either of these claims should they be considered. First, Iowa Code section 428.7 permits an assessor to combine descriptions of properties for assessment purposes to allow the assessor to value the property as a unit. That occurred here and we note the valuation methodology used most likely reduced the valuation to the owner’s benefit. Second, Cottage Properties has offered no evidence of the subject’s market value, such as recent comparable sales, an appraisal, or comparative market analysis, to demonstrate the assessment is excessive or otherwise erroneous.

Viewing the record as a whole, we find Cottage Properties failed to support its claim.

## **Order**

PAAB HEREBY AFFIRMS the assessment.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2021).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB

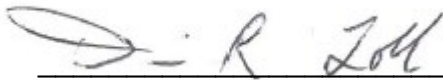
administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



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Karen Oberman, Board Member



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Dennis Loll, Board Member



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Elizabeth Goodman, Board Member

Copies to:

Doug Frank  
33930 Johnson Drive  
Sioux City, Iowa 51108

Sioux City Board of Review by eFile